



Rep. Sue Scherer

Filed: 3/15/2013

09800HB2907ham001

LRB098 06257 JDS 43166 a

1 AMENDMENT TO HOUSE BILL 2907

2 AMENDMENT NO. _____. Amend House Bill 2907 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 adding Section 39.2a and changing Sections 3.330, 39, and 39.2
6 as follows:

7 (415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

8 Sec. 3.330. Pollution control facility.

9 (a) "Pollution control facility" is any waste storage site,
10 sanitary landfill, waste disposal site, waste transfer
11 station, waste treatment facility, or waste incinerator. This
12 includes sewers, sewage treatment plants, and any other
13 facilities owned or operated by sanitary districts organized
14 under the Metropolitan Water Reclamation District Act.

15 The following are not pollution control facilities:

16 (1) (blank);

1 (2) waste storage sites regulated under 40 CFR, Part
2 761.42;

3 (3) sites or facilities used by any person conducting a
4 waste storage, waste treatment, waste disposal, waste
5 transfer or waste incineration operation, or a combination
6 thereof, for wastes generated by such person's own
7 activities, when such wastes are stored, treated, disposed
8 of, transferred or incinerated within the site or facility
9 owned, controlled or operated by such person, or when such
10 wastes are transported within or between sites or
11 facilities owned, controlled or operated by such person;

12 (4) sites or facilities at which the State is
13 performing removal or remedial action pursuant to Section
14 22.2 or 55.3;

15 (5) abandoned quarries used solely for the disposal of
16 concrete, earth materials, gravel, or aggregate debris
17 resulting from road construction activities conducted by a
18 unit of government or construction activities due to the
19 construction and installation of underground pipes, lines,
20 conduit or wires off of the premises of a public utility
21 company which are conducted by a public utility;

22 (6) sites or facilities used by any person to
23 specifically conduct a landscape composting operation;

24 (7) regional facilities as defined in the Central
25 Midwest Interstate Low-Level Radioactive Waste Compact;

26 (8) the portion of a site or facility where coal

1 combustion wastes are stored or disposed of in accordance
2 with subdivision (r) (2) or (r) (3) of Section 21;

3 (9) the portion of a site or facility used for the
4 collection, storage or processing of waste tires as defined
5 in Title XIV;

6 (10) the portion of a site or facility used for
7 treatment of petroleum contaminated materials by
8 application onto or incorporation into the soil surface and
9 any portion of that site or facility used for storage of
10 petroleum contaminated materials before treatment. Only
11 those categories of petroleum listed in Section 57.9(a) (3)
12 are exempt under this subdivision (10);

13 (11) the portion of a site or facility where used oil
14 is collected or stored prior to shipment to a recycling or
15 energy recovery facility, provided that the used oil is
16 generated by households or commercial establishments, and
17 the site or facility is a recycling center or a business
18 where oil or gasoline is sold at retail;

19 (11.5) processing sites or facilities that receive
20 only on-specification used oil, as defined in 35 Ill.
21 Admin. Code 739, originating from used oil collectors for
22 processing that is managed under 35 Ill. Admin. Code 739 to
23 produce products for sale to off-site petroleum
24 facilities, if these processing sites or facilities are:
25 (i) located within a home rule unit of local government
26 with a population of at least 30,000 according to the 2000

1 federal census, that home rule unit of local government has
2 been designated as an Urban Round II Empowerment Zone by
3 the United States Department of Housing and Urban
4 Development, and that home rule unit of local government
5 has enacted an ordinance approving the location of the site
6 or facility and provided funding for the site or facility;
7 and (ii) in compliance with all applicable zoning
8 requirements;

9 (12) the portion of a site or facility utilizing coal
10 combustion waste for stabilization and treatment of only
11 waste generated on that site or facility when used in
12 connection with response actions pursuant to the federal
13 Comprehensive Environmental Response, Compensation, and
14 Liability Act of 1980, the federal Resource Conservation
15 and Recovery Act of 1976, or the Illinois Environmental
16 Protection Act or as authorized by the Agency;

17 (13) the portion of a site or facility that (i) accepts
18 exclusively general construction or demolition debris,
19 (ii) is located in a county with a population over
20 3,000,000 as of January 1, 2000 or in a county that is
21 contiguous to such a county, and (iii) is operated and
22 located in accordance with Section 22.38 of this Act;

23 (14) the portion of a site or facility, located within
24 a unit of local government that has enacted local zoning
25 requirements, used to accept, separate, and process
26 uncontaminated broken concrete, with or without protruding

1 metal bars, provided that the uncontaminated broken
2 concrete and metal bars are not speculatively accumulated,
3 are at the site or facility no longer than one year after
4 their acceptance, and are returned to the economic
5 mainstream in the form of raw materials or products;

6 (15) the portion of a site or facility located in a
7 county with a population over 3,000,000 that has obtained
8 local siting approval under Section 39.2 of this Act for a
9 municipal waste incinerator on or before July 1, 2005 and
10 that is used for a non-hazardous waste transfer station;

11 (16) a site or facility that temporarily holds in
12 transit for 10 days or less, non-putrescible solid waste in
13 original containers, no larger in capacity than 500
14 gallons, provided that such waste is further transferred to
15 a recycling, disposal, treatment, or storage facility on a
16 non-contiguous site and provided such site or facility
17 complies with the applicable 10-day transfer requirements
18 of the federal Resource Conservation and Recovery Act of
19 1976 and United States Department of Transportation
20 hazardous material requirements. For purposes of this
21 Section only, "non-putrescible solid waste" means waste
22 other than municipal garbage that does not rot or become
23 putrid, including, but not limited to, paints, solvent,
24 filters, and absorbents;

25 (17) the portion of a site or facility located in a
26 county with a population greater than 3,000,000 that has

1 obtained local siting approval, under Section 39.2 of this
2 Act, for a municipal waste incinerator on or before July 1,
3 2005 and that is used for wood combustion facilities for
4 energy recovery that accept and burn only wood material, as
5 included in a fuel specification approved by the Agency;

6 (18) a transfer station used exclusively for landscape
7 waste, including a transfer station where landscape waste
8 is ground to reduce its volume, where the landscape waste
9 is held no longer than 24 hours from the time it was
10 received;

11 (19) the portion of a site or facility that (i) is used
12 for the composting of food scrap, livestock waste, crop
13 residue, uncontaminated wood waste, or paper waste,
14 including, but not limited to, corrugated paper or
15 cardboard, and (ii) meets all of the following
16 requirements:

17 (A) There must not be more than a total of 30,000
18 cubic yards of livestock waste in raw form or in the
19 process of being composted at the site or facility at
20 any one time.

21 (B) All food scrap, livestock waste, crop residue,
22 uncontaminated wood waste, and paper waste must, by the
23 end of each operating day, be processed and placed into
24 an enclosed vessel in which air flow and temperature
25 are controlled, or all of the following additional
26 requirements must be met:

1 (i) The portion of the site or facility used
2 for the composting operation must include a
3 setback of at least 200 feet from the nearest
4 potable water supply well.

5 (ii) The portion of the site or facility used
6 for the composting operation must be located
7 outside the boundary of the 10-year floodplain or
8 floodproofed.

9 (iii) The portion of the site or facility used
10 for the composting operation must be located at
11 least one-eighth of a mile from the nearest
12 residence, other than a residence located on the
13 same property as the site or facility.

14 (iv) The portion of the site or facility used
15 for the composting operation must be located at
16 least one-eighth of a mile from the property line
17 of all of the following areas:

18 (I) Facilities that primarily serve to
19 house or treat people that are
20 immunocompromised or immunosuppressed, such as
21 cancer or AIDS patients; people with asthma,
22 cystic fibrosis, or bioaerosol allergies; or
23 children under the age of one year.

24 (II) Primary and secondary schools and
25 adjacent areas that the schools use for
26 recreation.

1 (III) Any facility for child care licensed
2 under Section 3 of the Child Care Act of 1969;
3 preschools; and adjacent areas that the
4 facilities or preschools use for recreation.

5 (v) By the end of each operating day, all food
6 scrap, livestock waste, crop residue,
7 uncontaminated wood waste, and paper waste must be
8 (i) processed into windrows or other piles and (ii)
9 covered in a manner that prevents scavenging by
10 birds and animals and that prevents other
11 nuisances.

12 (C) Food scrap, livestock waste, crop residue,
13 uncontaminated wood waste, paper waste, and compost
14 must not be placed within 5 feet of the water table.

15 (D) The site or facility must meet all of the
16 requirements of the Wild and Scenic Rivers Act (16
17 U.S.C. 1271 et seq.).

18 (E) The site or facility must not (i) restrict the
19 flow of a 100-year flood, (ii) result in washout of
20 food scrap, livestock waste, crop residue,
21 uncontaminated wood waste, or paper waste from a
22 100-year flood, or (iii) reduce the temporary water
23 storage capacity of the 100-year floodplain, unless
24 measures are undertaken to provide alternative storage
25 capacity, such as by providing lagoons, holding tanks,
26 or drainage around structures at the facility.

1 (F) The site or facility must not be located in any
2 area where it may pose a threat of harm or destruction
3 to the features for which:

4 (i) an irreplaceable historic or
5 archaeological site has been listed under the
6 National Historic Preservation Act (16 U.S.C. 470
7 et seq.) or the Illinois Historic Preservation
8 Act;

9 (ii) a natural landmark has been designated by
10 the National Park Service or the Illinois State
11 Historic Preservation Office; or

12 (iii) a natural area has been designated as a
13 Dedicated Illinois Nature Preserve under the
14 Illinois Natural Areas Preservation Act.

15 (G) The site or facility must not be located in an
16 area where it may jeopardize the continued existence of
17 any designated endangered species, result in the
18 destruction or adverse modification of the critical
19 habitat for such species, or cause or contribute to the
20 taking of any endangered or threatened species of
21 plant, fish, or wildlife listed under the Endangered
22 Species Act (16 U.S.C. 1531 et seq.) or the Illinois
23 Endangered Species Protection Act;

24 (20) the portion of a site or facility that is located
25 entirely within a home rule unit having a population of no
26 less than 120,000 and no more than 135,000, according to

1 the 2000 federal census, and that meets all of the
2 following requirements:

3 (i) the portion of the site or facility is used
4 exclusively to perform testing of a thermochemical
5 conversion technology using only woody biomass,
6 collected as landscape waste within the boundaries
7 of the home rule unit, as the hydrocarbon feedstock
8 for the production of synthetic gas in accordance
9 with Section 39.9 of this Act;

10 (ii) the portion of the site or facility is in
11 compliance with all applicable zoning
12 requirements; and

13 (iii) a complete application for a
14 demonstration permit at the portion of the site or
15 facility has been submitted to the Agency in
16 accordance with Section 39.9 of this Act within one
17 year after July 27, 2010 (the effective date of
18 Public Act 96-1314);

19 (21) the portion of a site or facility used to perform
20 limited testing of a gasification conversion technology in
21 accordance with Section 39.8 of this Act and for which a
22 complete permit application has been submitted to the
23 Agency prior to one year from April 9, 2010 (the effective
24 date of Public Act 96-887); and

25 (22) the portion of a site or facility that is used to
26 incinerate only pharmaceuticals from residential sources

1 that are collected and transported by law enforcement
2 agencies under Section 17.9A of this Act.

3 (a-5) Notwithstanding any provision of subsection (a) of
4 this Section to the contrary, any site or facility for the
5 treatment, storage, or disposal of polychlorinated biphenyls
6 (PCBs) or PCB Items regulated under Subpart D of 40 C.F.R. 761
7 that is located less than 500 feet above an aquifer that
8 currently provides the only source of potable water for a
9 community water supply is a pollution control facility.

10 (b) A new pollution control facility is:

11 (1) a pollution control facility initially permitted
12 for development or construction after July 1, 1981; or

13 (2) the area of expansion beyond the boundary of a
14 currently permitted pollution control facility; or

15 (3) a permitted pollution control facility requesting
16 approval to store, dispose of, transfer or incinerate, for
17 the first time, any special or hazardous waste.

18 (Source: P.A. 96-418, eff. 1-1-10; 96-611, eff. 8-24-09;
19 96-887, eff. 4-9-10; 96-1000, eff. 7-2-10; 96-1068, eff.
20 7-16-10; 96-1314, eff. 7-27-10; 97-333, eff. 8-12-11; 97-545,
21 eff. 1-1-12.)

22 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

23 Sec. 39. Issuance of permits; procedures.

24 (a) When the Board has by regulation required a permit for
25 the construction, installation, or operation of any type of

1 facility, equipment, vehicle, vessel, or aircraft, the
2 applicant shall apply to the Agency for such permit and it
3 shall be the duty of the Agency to issue such a permit upon
4 proof by the applicant that the facility, equipment, vehicle,
5 vessel, or aircraft will not cause a violation of this Act or
6 of regulations hereunder. The Agency shall adopt such
7 procedures as are necessary to carry out its duties under this
8 Section. In making its determinations on permit applications
9 under this Section the Agency may consider prior adjudications
10 of noncompliance with this Act by the applicant that involved a
11 release of a contaminant into the environment. In granting
12 permits, the Agency may impose reasonable conditions
13 specifically related to the applicant's past compliance
14 history with this Act as necessary to correct, detect, or
15 prevent noncompliance. The Agency may impose such other
16 conditions as may be necessary to accomplish the purposes of
17 this Act, and as are not inconsistent with the regulations
18 promulgated by the Board hereunder. Except as otherwise
19 provided in this Act, a bond or other security shall not be
20 required as a condition for the issuance of a permit. If the
21 Agency denies any permit under this Section, the Agency shall
22 transmit to the applicant within the time limitations of this
23 Section specific, detailed statements as to the reasons the
24 permit application was denied. Such statements shall include,
25 but not be limited to the following:

26 (i) the Sections of this Act which may be violated if

1 the permit were granted;

2 (ii) the provision of the regulations, promulgated
3 under this Act, which may be violated if the permit were
4 granted;

5 (iii) the specific type of information, if any, which
6 the Agency deems the applicant did not provide the Agency;
7 and

8 (iv) a statement of specific reasons why the Act and
9 the regulations might not be met if the permit were
10 granted.

11 If there is no final action by the Agency within 90 days
12 after the filing of the application for permit, the applicant
13 may deem the permit issued; except that this time period shall
14 be extended to 180 days when (1) notice and opportunity for
15 public hearing are required by State or federal law or
16 regulation, (2) the application which was filed is for any
17 permit to develop a landfill subject to issuance pursuant to
18 this subsection, or (3) the application that was filed is for a
19 MSWLF unit required to issue public notice under subsection (p)
20 of Section 39. The 90-day and 180-day time periods for the
21 Agency to take final action do not apply to NPDES permit
22 applications under subsection (b) of this Section, to RCRA
23 permit applications under subsection (d) of this Section, or to
24 UIC permit applications under subsection (e) of this Section.

25 The Agency shall publish notice of all final permit
26 determinations for development permits for MSWLF units and for

1 significant permit modifications for lateral expansions for
2 existing MSWLF units one time in a newspaper of general
3 circulation in the county in which the unit is or is proposed
4 to be located.

5 After January 1, 1994 and until July 1, 1998, operating
6 permits issued under this Section by the Agency for sources of
7 air pollution permitted to emit less than 25 tons per year of
8 any combination of regulated air pollutants, as defined in
9 Section 39.5 of this Act, shall be required to be renewed only
10 upon written request by the Agency consistent with applicable
11 provisions of this Act and regulations promulgated hereunder.
12 Such operating permits shall expire 180 days after the date of
13 such a request. The Board shall revise its regulations for the
14 existing State air pollution operating permit program
15 consistent with this provision by January 1, 1994.

16 After June 30, 1998, operating permits issued under this
17 Section by the Agency for sources of air pollution that are not
18 subject to Section 39.5 of this Act and are not required to
19 have a federally enforceable State operating permit shall be
20 required to be renewed only upon written request by the Agency
21 consistent with applicable provisions of this Act and its
22 rules. Such operating permits shall expire 180 days after the
23 date of such a request. Before July 1, 1998, the Board shall
24 revise its rules for the existing State air pollution operating
25 permit program consistent with this paragraph and shall adopt
26 rules that require a source to demonstrate that it qualifies

1 for a permit under this paragraph.

2 (b) The Agency may issue NPDES permits exclusively under
3 this subsection for the discharge of contaminants from point
4 sources into navigable waters, all as defined in the Federal
5 Water Pollution Control Act, as now or hereafter amended,
6 within the jurisdiction of the State, or into any well.

7 All NPDES permits shall contain those terms and conditions,
8 including but not limited to schedules of compliance, which may
9 be required to accomplish the purposes and provisions of this
10 Act.

11 The Agency may issue general NPDES permits for discharges
12 from categories of point sources which are subject to the same
13 permit limitations and conditions. Such general permits may be
14 issued without individual applications and shall conform to
15 regulations promulgated under Section 402 of the Federal Water
16 Pollution Control Act, as now or hereafter amended.

17 The Agency may include, among such conditions, effluent
18 limitations and other requirements established under this Act,
19 Board regulations, the Federal Water Pollution Control Act, as
20 now or hereafter amended, and regulations pursuant thereto, and
21 schedules for achieving compliance therewith at the earliest
22 reasonable date.

23 The Agency shall adopt filing requirements and procedures
24 which are necessary and appropriate for the issuance of NPDES
25 permits, and which are consistent with the Act or regulations
26 adopted by the Board, and with the Federal Water Pollution

1 Control Act, as now or hereafter amended, and regulations
2 pursuant thereto.

3 The Agency, subject to any conditions which may be
4 prescribed by Board regulations, may issue NPDES permits to
5 allow discharges beyond deadlines established by this Act or by
6 regulations of the Board without the requirement of a variance,
7 subject to the Federal Water Pollution Control Act, as now or
8 hereafter amended, and regulations pursuant thereto.

9 (c) Except for those facilities owned or operated by
10 sanitary districts organized under the Metropolitan Water
11 Reclamation District Act, no permit for the development or
12 construction of a new pollution control facility may be granted
13 by the Agency unless the applicant submits proof to the Agency
14 that the location of the facility has been approved by the
15 appropriate governing bodies ~~County Board of the county if in~~
16 ~~an unincorporated area, or the governing body of the~~
17 ~~municipality when in an incorporated area, in which the~~
18 ~~facility is to be located~~ in accordance with Section 39.2 of
19 this Act. For purposes of this subsection (c), and for purposes
20 of Section 39.2 of this Act, the appropriate governing bodies
21 ~~appropriate county board or governing body of the municipality~~
22 shall be: (i) except as provided in item (ii), for
23 unincorporated areas, the county board of the county in which
24 the facility is to be located as of the date when the
25 application for siting approval is filed or, for incorporated
26 areas, the governing body of the municipality in which the

1 facility is to be located as of the date when the application
2 for siting approval is filed and (ii) in the case of a site or
3 facility for the treatment, storage, or disposal of
4 polychlorinated biphenyls (PCBs) or PCB Items regulated under
5 Subpart D of 40 C.F.R. 761 that is located less than 500 feet
6 above an aquifer that currently provides the only source of
7 potable water for a community water supply, the county board of
8 each county located, in or whole in part, within the aquifer's
9 boundaries and the governing body of each municipality located,
10 in or whole or part, within the aquifer's boundaries.

11 In the event that siting approval granted pursuant to
12 Section 39.2 has been transferred to a subsequent owner or
13 operator, that subsequent owner or operator may apply to the
14 Agency for, and the Agency may grant, a development or
15 construction permit for the facility for which local siting
16 approval was granted. Upon application to the Agency for a
17 development or construction permit by that subsequent owner or
18 operator, the permit applicant shall cause written notice of
19 the permit application to be served upon the appropriate county
20 board or governing body of the municipality that granted siting
21 approval for that facility and upon any party to the siting
22 proceeding pursuant to which siting approval was granted. In
23 that event, the Agency shall conduct an evaluation of the
24 subsequent owner or operator's prior experience in waste
25 management operations in the manner conducted under subsection
26 (i) of Section 39 of this Act.

1 Beginning August 20, 1993, if the pollution control
2 facility consists of a hazardous or solid waste disposal
3 facility for which the proposed site is located in an
4 unincorporated area of a county with a population of less than
5 100,000 and includes all or a portion of a parcel of land that
6 was, on April 1, 1993, adjacent to a municipality having a
7 population of less than 5,000, then the local siting review
8 required under this subsection (c) in conjunction with any
9 permit applied for after that date shall be performed by the
10 governing body of that adjacent municipality rather than the
11 county board of the county in which the proposed site is
12 located; and for the purposes of that local siting review, any
13 references in this Act to the county board shall be deemed to
14 mean the governing body of that adjacent municipality;
15 provided, however, that the provisions of this paragraph shall
16 not apply to any proposed site which was, on April 1, 1993,
17 owned in whole or in part by another municipality or to any
18 site or facility for the treatment, storage, or disposal of
19 polychlorinated biphenyls (PCBs) or PCB Items regulated under
20 Subpart D of 40 C.F.R. 761 that is located less than 500 feet
21 above an aquifer that currently provides the only source of
22 potable water for a community water supply.

23 In the case of a pollution control facility for which a
24 development permit was issued before November 12, 1981, if an
25 operating permit has not been issued by the Agency prior to
26 August 31, 1989 for any portion of the facility, then the

1 Agency may not issue or renew any development permit nor issue
2 an original operating permit for any portion of such facility
3 unless the applicant has submitted proof to the Agency that the
4 location of the facility has been approved by the appropriate
5 county board or municipal governing body pursuant to Section
6 39.2 of this Act.

7 After January 1, 1994, if a solid waste disposal facility,
8 any portion for which an operating permit has been issued by
9 the Agency, has not accepted waste disposal for 5 or more
10 consecutive calendars years, before that facility may accept
11 any new or additional waste for disposal, the owner and
12 operator must obtain a new operating permit under this Act for
13 that facility unless the owner and operator have applied to the
14 Agency for a permit authorizing the temporary suspension of
15 waste acceptance. The Agency may not issue a new operation
16 permit under this Act for the facility unless the applicant has
17 submitted proof to the Agency that the location of the facility
18 has been approved or re-approved by the appropriate county
19 board or municipal governing body under Section 39.2 of this
20 Act after the facility ceased accepting waste.

21 Except for those facilities owned or operated by sanitary
22 districts organized under the Metropolitan Water Reclamation
23 District Act, and except for new pollution control facilities
24 governed by Section 39.2, and except for fossil fuel mining
25 facilities, the granting of a permit under this Act shall not
26 relieve the applicant from meeting and securing all necessary

1 zoning approvals from the unit of government having zoning
2 jurisdiction over the proposed facility.

3 Before beginning construction on any new sewage treatment
4 plant or sludge drying site to be owned or operated by a
5 sanitary district organized under the Metropolitan Water
6 Reclamation District Act for which a new permit (rather than
7 the renewal or amendment of an existing permit) is required,
8 such sanitary district shall hold a public hearing within the
9 municipality within which the proposed facility is to be
10 located, or within the nearest community if the proposed
11 facility is to be located within an unincorporated area, at
12 which information concerning the proposed facility shall be
13 made available to the public, and members of the public shall
14 be given the opportunity to express their views concerning the
15 proposed facility.

16 The Agency may issue a permit for a municipal waste
17 transfer station without requiring approval pursuant to
18 Section 39.2 provided that the following demonstration is made:

19 (1) the municipal waste transfer station was in
20 existence on or before January 1, 1979 and was in
21 continuous operation from January 1, 1979 to January 1,
22 1993;

23 (2) the operator submitted a permit application to the
24 Agency to develop and operate the municipal waste transfer
25 station during April of 1994;

26 (3) the operator can demonstrate that the county board

1 of the county, if the municipal waste transfer station is
2 in an unincorporated area, or the governing body of the
3 municipality, if the station is in an incorporated area,
4 does not object to resumption of the operation of the
5 station; and

6 (4) the site has local zoning approval.

7 (d) The Agency may issue RCRA permits exclusively under
8 this subsection to persons owning or operating a facility for
9 the treatment, storage, or disposal of hazardous waste as
10 defined under this Act.

11 All RCRA permits shall contain those terms and conditions,
12 including but not limited to schedules of compliance, which may
13 be required to accomplish the purposes and provisions of this
14 Act. The Agency may include among such conditions standards and
15 other requirements established under this Act, Board
16 regulations, the Resource Conservation and Recovery Act of 1976
17 (P.L. 94-580), as amended, and regulations pursuant thereto,
18 and may include schedules for achieving compliance therewith as
19 soon as possible. The Agency shall require that a performance
20 bond or other security be provided as a condition for the
21 issuance of a RCRA permit.

22 In the case of a permit to operate a hazardous waste or PCB
23 incinerator as defined in subsection (k) of Section 44, the
24 Agency shall require, as a condition of the permit, that the
25 operator of the facility perform such analyses of the waste to
26 be incinerated as may be necessary and appropriate to ensure

1 the safe operation of the incinerator.

2 The Agency shall adopt filing requirements and procedures
3 which are necessary and appropriate for the issuance of RCRA
4 permits, and which are consistent with the Act or regulations
5 adopted by the Board, and with the Resource Conservation and
6 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations
7 pursuant thereto.

8 The applicant shall make available to the public for
9 inspection all documents submitted by the applicant to the
10 Agency in furtherance of an application, with the exception of
11 trade secrets, at the office of the county board or governing
12 body of the municipality. Such documents may be copied upon
13 payment of the actual cost of reproduction during regular
14 business hours of the local office. The Agency shall issue a
15 written statement concurrent with its grant or denial of the
16 permit explaining the basis for its decision.

17 (e) The Agency may issue UIC permits exclusively under this
18 subsection to persons owning or operating a facility for the
19 underground injection of contaminants as defined under this
20 Act.

21 All UIC permits shall contain those terms and conditions,
22 including but not limited to schedules of compliance, which may
23 be required to accomplish the purposes and provisions of this
24 Act. The Agency may include among such conditions standards and
25 other requirements established under this Act, Board
26 regulations, the Safe Drinking Water Act (P.L. 93-523), as

1 amended, and regulations pursuant thereto, and may include
2 schedules for achieving compliance therewith. The Agency shall
3 require that a performance bond or other security be provided
4 as a condition for the issuance of a UIC permit.

5 The Agency shall adopt filing requirements and procedures
6 which are necessary and appropriate for the issuance of UIC
7 permits, and which are consistent with the Act or regulations
8 adopted by the Board, and with the Safe Drinking Water Act
9 (P.L. 93-523), as amended, and regulations pursuant thereto.

10 The applicant shall make available to the public for
11 inspection, all documents submitted by the applicant to the
12 Agency in furtherance of an application, with the exception of
13 trade secrets, at the office of the county board or governing
14 body of the municipality. Such documents may be copied upon
15 payment of the actual cost of reproduction during regular
16 business hours of the local office. The Agency shall issue a
17 written statement concurrent with its grant or denial of the
18 permit explaining the basis for its decision.

19 (f) In making any determination pursuant to Section 9.1 of
20 this Act:

21 (1) The Agency shall have authority to make the
22 determination of any question required to be determined by
23 the Clean Air Act, as now or hereafter amended, this Act,
24 or the regulations of the Board, including the
25 determination of the Lowest Achievable Emission Rate,
26 Maximum Achievable Control Technology, or Best Available

1 Control Technology, consistent with the Board's
2 regulations, if any.

3 (2) The Agency shall, after conferring with the
4 applicant, give written notice to the applicant of its
5 proposed decision on the application including the terms
6 and conditions of the permit to be issued and the facts,
7 conduct or other basis upon which the Agency will rely to
8 support its proposed action.

9 (3) Following such notice, the Agency shall give the
10 applicant an opportunity for a hearing in accordance with
11 the provisions of Sections 10-25 through 10-60 of the
12 Illinois Administrative Procedure Act.

13 (g) The Agency shall include as conditions upon all permits
14 issued for hazardous waste disposal sites such restrictions
15 upon the future use of such sites as are reasonably necessary
16 to protect public health and the environment, including
17 permanent prohibition of the use of such sites for purposes
18 which may create an unreasonable risk of injury to human health
19 or to the environment. After administrative and judicial
20 challenges to such restrictions have been exhausted, the Agency
21 shall file such restrictions of record in the Office of the
22 Recorder of the county in which the hazardous waste disposal
23 site is located.

24 (h) A hazardous waste stream may not be deposited in a
25 permitted hazardous waste site unless specific authorization
26 is obtained from the Agency by the generator and disposal site

1 owner and operator for the deposit of that specific hazardous
2 waste stream. The Agency may grant specific authorization for
3 disposal of hazardous waste streams only after the generator
4 has reasonably demonstrated that, considering technological
5 feasibility and economic reasonableness, the hazardous waste
6 cannot be reasonably recycled for reuse, nor incinerated or
7 chemically, physically or biologically treated so as to
8 neutralize the hazardous waste and render it nonhazardous. In
9 granting authorization under this Section, the Agency may
10 impose such conditions as may be necessary to accomplish the
11 purposes of the Act and are consistent with this Act and
12 regulations promulgated by the Board hereunder. If the Agency
13 refuses to grant authorization under this Section, the
14 applicant may appeal as if the Agency refused to grant a
15 permit, pursuant to the provisions of subsection (a) of Section
16 40 of this Act. For purposes of this subsection (h), the term
17 "generator" has the meaning given in Section 3.205 of this Act,
18 unless: (1) the hazardous waste is treated, incinerated, or
19 partially recycled for reuse prior to disposal, in which case
20 the last person who treats, incinerates, or partially recycles
21 the hazardous waste prior to disposal is the generator; or (2)
22 the hazardous waste is from a response action, in which case
23 the person performing the response action is the generator.
24 This subsection (h) does not apply to any hazardous waste that
25 is restricted from land disposal under 35 Ill. Adm. Code 728.

26 (i) Before issuing any RCRA permit, any permit for a waste

1 storage site, sanitary landfill, waste disposal site, waste
2 transfer station, waste treatment facility, waste incinerator,
3 or any waste-transportation operation, or any permit or interim
4 authorization for a clean construction or demolition debris
5 fill operation, the Agency shall conduct an evaluation of the
6 prospective owner's or operator's prior experience in waste
7 management operations and clean construction or demolition
8 debris fill operations. The Agency may deny such a permit, or
9 deny or revoke interim authorization, if the prospective owner
10 or operator or any employee or officer of the prospective owner
11 or operator has a history of:

12 (1) repeated violations of federal, State, or local
13 laws, regulations, standards, or ordinances in the
14 operation of waste management facilities or sites or clean
15 construction or demolition debris fill operation
16 facilities or sites; or

17 (2) conviction in this or another State of any crime
18 which is a felony under the laws of this State, or
19 conviction of a felony in a federal court; or conviction in
20 this or another state or federal court of any of the
21 following crimes: forgery, official misconduct, bribery,
22 perjury, or knowingly submitting false information under
23 any environmental law, regulation, or permit term or
24 condition; or

25 (3) proof of gross carelessness or incompetence in
26 handling, storing, processing, transporting or disposing

1 of waste or clean construction or demolition debris, or
2 proof of gross carelessness or incompetence in using clean
3 construction or demolition debris as fill.

4 (i-5) Before issuing any permit or approving any interim
5 authorization for a clean construction or demolition debris
6 fill operation in which any ownership interest is transferred
7 between January 1, 2005, and the effective date of the
8 prohibition set forth in Section 22.52 of this Act, the Agency
9 shall conduct an evaluation of the operation if any previous
10 activities at the site or facility may have caused or allowed
11 contamination of the site. It shall be the responsibility of
12 the owner or operator seeking the permit or interim
13 authorization to provide to the Agency all of the information
14 necessary for the Agency to conduct its evaluation. The Agency
15 may deny a permit or interim authorization if previous
16 activities at the site may have caused or allowed contamination
17 at the site, unless such contamination is authorized under any
18 permit issued by the Agency.

19 (j) The issuance under this Act of a permit to engage in
20 the surface mining of any resources other than fossil fuels
21 shall not relieve the permittee from its duty to comply with
22 any applicable local law regulating the commencement, location
23 or operation of surface mining facilities.

24 (k) A development permit issued under subsection (a) of
25 Section 39 for any facility or site which is required to have a
26 permit under subsection (d) of Section 21 shall expire at the

1 end of 2 calendar years from the date upon which it was issued,
2 unless within that period the applicant has taken action to
3 develop the facility or the site. In the event that review of
4 the conditions of the development permit is sought pursuant to
5 Section 40 or 41, or permittee is prevented from commencing
6 development of the facility or site by any other litigation
7 beyond the permittee's control, such two-year period shall be
8 deemed to begin on the date upon which such review process or
9 litigation is concluded.

10 (l) No permit shall be issued by the Agency under this Act
11 for construction or operation of any facility or site located
12 within the boundaries of any setback zone established pursuant
13 to this Act, where such construction or operation is
14 prohibited.

15 (m) The Agency may issue permits to persons owning or
16 operating a facility for composting landscape waste. In
17 granting such permits, the Agency may impose such conditions as
18 may be necessary to accomplish the purposes of this Act, and as
19 are not inconsistent with applicable regulations promulgated
20 by the Board. Except as otherwise provided in this Act, a bond
21 or other security shall not be required as a condition for the
22 issuance of a permit. If the Agency denies any permit pursuant
23 to this subsection, the Agency shall transmit to the applicant
24 within the time limitations of this subsection specific,
25 detailed statements as to the reasons the permit application
26 was denied. Such statements shall include but not be limited to

1 the following:

2 (1) the Sections of this Act that may be violated if
3 the permit were granted;

4 (2) the specific regulations promulgated pursuant to
5 this Act that may be violated if the permit were granted;

6 (3) the specific information, if any, the Agency deems
7 the applicant did not provide in its application to the
8 Agency; and

9 (4) a statement of specific reasons why the Act and the
10 regulations might be violated if the permit were granted.

11 If no final action is taken by the Agency within 90 days
12 after the filing of the application for permit, the applicant
13 may deem the permit issued. Any applicant for a permit may
14 waive the 90 day limitation by filing a written statement with
15 the Agency.

16 The Agency shall issue permits for such facilities upon
17 receipt of an application that includes a legal description of
18 the site, a topographic map of the site drawn to the scale of
19 200 feet to the inch or larger, a description of the operation,
20 including the area served, an estimate of the volume of
21 materials to be processed, and documentation that:

22 (1) the facility includes a setback of at least 200
23 feet from the nearest potable water supply well;

24 (2) the facility is located outside the boundary of the
25 10-year floodplain or the site will be floodproofed;

26 (3) the facility is located so as to minimize

1 incompatibility with the character of the surrounding
2 area, including at least a 200 foot setback from any
3 residence, and in the case of a facility that is developed
4 or the permitted composting area of which is expanded after
5 November 17, 1991, the composting area is located at least
6 1/8 mile from the nearest residence (other than a residence
7 located on the same property as the facility);

8 (4) the design of the facility will prevent any compost
9 material from being placed within 5 feet of the water
10 table, will adequately control runoff from the site, and
11 will collect and manage any leachate that is generated on
12 the site;

13 (5) the operation of the facility will include
14 appropriate dust and odor control measures, limitations on
15 operating hours, appropriate noise control measures for
16 shredding, chipping and similar equipment, management
17 procedures for composting, containment and disposal of
18 non-compostable wastes, procedures to be used for
19 terminating operations at the site, and recordkeeping
20 sufficient to document the amount of materials received,
21 composted and otherwise disposed of; and

22 (6) the operation will be conducted in accordance with
23 any applicable rules adopted by the Board.

24 The Agency shall issue renewable permits of not longer than
25 10 years in duration for the composting of landscape wastes, as
26 defined in Section 3.155 of this Act, based on the above

1 requirements.

2 The operator of any facility permitted under this
3 subsection (m) must submit a written annual statement to the
4 Agency on or before April 1 of each year that includes an
5 estimate of the amount of material, in tons, received for
6 composting.

7 (n) The Agency shall issue permits jointly with the
8 Department of Transportation for the dredging or deposit of
9 material in Lake Michigan in accordance with Section 18 of the
10 Rivers, Lakes, and Streams Act.

11 (o) (Blank.)

12 (p) (1) Any person submitting an application for a permit
13 for a new MSWLF unit or for a lateral expansion under
14 subsection (t) of Section 21 of this Act for an existing MSWLF
15 unit that has not received and is not subject to local siting
16 approval under Section 39.2 of this Act shall publish notice of
17 the application in a newspaper of general circulation in the
18 county in which the MSWLF unit is or is proposed to be located.
19 The notice must be published at least 15 days before submission
20 of the permit application to the Agency. The notice shall state
21 the name and address of the applicant, the location of the
22 MSWLF unit or proposed MSWLF unit, the nature and size of the
23 MSWLF unit or proposed MSWLF unit, the nature of the activity
24 proposed, the probable life of the proposed activity, the date
25 the permit application will be submitted, and a statement that
26 persons may file written comments with the Agency concerning

1 the permit application within 30 days after the filing of the
2 permit application unless the time period to submit comments is
3 extended by the Agency.

4 When a permit applicant submits information to the Agency
5 to supplement a permit application being reviewed by the
6 Agency, the applicant shall not be required to reissue the
7 notice under this subsection.

8 (2) The Agency shall accept written comments concerning the
9 permit application that are postmarked no later than 30 days
10 after the filing of the permit application, unless the time
11 period to accept comments is extended by the Agency.

12 (3) Each applicant for a permit described in part (1) of
13 this subsection shall file a copy of the permit application
14 with the county board or governing body of the municipality in
15 which the MSWLF unit is or is proposed to be located at the
16 same time the application is submitted to the Agency. The
17 permit application filed with the county board or governing
18 body of the municipality shall include all documents submitted
19 to or to be submitted to the Agency, except trade secrets as
20 determined under Section 7.1 of this Act. The permit
21 application and other documents on file with the county board
22 or governing body of the municipality shall be made available
23 for public inspection during regular business hours at the
24 office of the county board or the governing body of the
25 municipality and may be copied upon payment of the actual cost
26 of reproduction.

1 (q) Within 6 months after the effective date of this
2 amendatory Act of the 97th General Assembly, the Agency, in
3 consultation with the regulated community, shall develop a web
4 portal to be posted on its website for the purpose of enhancing
5 review and promoting timely issuance of permits required by
6 this Act. At a minimum, the Agency shall make the following
7 information available on the web portal:

8 (1) Checklists and guidance relating to the completion
9 of permit applications, developed pursuant to subsection
10 (s) of this Section, which may include, but are not limited
11 to, existing instructions for completing the applications
12 and examples of complete applications. As the Agency
13 develops new checklists and develops guidance, it shall
14 supplement the web portal with those materials.

15 (2) Within 2 years after the effective date of this
16 amendatory Act of the 97th General Assembly, permit
17 application forms or portions of permit applications that
18 can be completed and saved electronically, and submitted to
19 the Agency electronically with digital signatures.

20 (3) Within 2 years after the effective date of this
21 amendatory Act of the 97th General Assembly, an online
22 tracking system where an applicant may review the status of
23 its pending application, including the name and contact
24 information of the permit analyst assigned to the
25 application. Until the online tracking system has been
26 developed, the Agency shall post on its website semi-annual

1 permitting efficiency tracking reports that include
2 statistics on the timeframes for Agency action on the
3 following types of permits received after the effective
4 date of this amendatory Act of the 97th General Assembly:
5 air construction permits, new NPDES permits and associated
6 water construction permits, and modifications of major
7 NPDES permits and associated water construction permits.
8 The reports must be posted by February 1 and August 1 each
9 year and shall include:

10 (A) the number of applications received for each
11 type of permit, the number of applications on which the
12 Agency has taken action, and the number of applications
13 still pending; and

14 (B) for those applications where the Agency has not
15 taken action in accordance with the timeframes set
16 forth in this Act, the date the application was
17 received and the reasons for any delays, which may
18 include, but shall not be limited to, (i) the
19 application being inadequate or incomplete, (ii)
20 scientific or technical disagreements with the
21 applicant, USEPA, or other local, state, or federal
22 agencies involved in the permitting approval process,
23 (iii) public opposition to the permit, or (iv) Agency
24 staffing shortages. To the extent practicable, the
25 tracking report shall provide approximate dates when
26 cause for delay was identified by the Agency, when the

1 Agency informed the applicant of the problem leading to
2 the delay, and when the applicant remedied the reason
3 for the delay.

4 (r) Upon the request of the applicant, the Agency shall
5 notify the applicant of the permit analyst assigned to the
6 application upon its receipt.

7 (s) The Agency is authorized to prepare and distribute
8 guidance documents relating to its administration of this
9 Section and procedural rules implementing this Section.
10 Guidance documents prepared under this subsection shall not be
11 considered rules and shall not be subject to the Illinois
12 Administrative Procedure Act. Such guidance shall not be
13 binding on any party.

14 (t) Except as otherwise prohibited by federal law or
15 regulation, any person submitting an application for a permit
16 may include with the application suggested permit language for
17 Agency consideration. The Agency is not obligated to use the
18 suggested language or any portion thereof in its permitting
19 decision. If requested by the permit applicant, the Agency
20 shall meet with the applicant to discuss the suggested
21 language.

22 (u) If requested by the permit applicant, the Agency shall
23 provide the permit applicant with a copy of the draft permit
24 prior to any public review period.

25 (v) If requested by the permit applicant, the Agency shall
26 provide the permit applicant with a copy of the final permit

1 prior to its issuance.

2 (w) An air pollution permit shall not be required due to
3 emissions of greenhouse gases, as specified by Section 9.15 of
4 this Act.

5 (Source: P.A. 97-95, eff. 7-12-11.)

6 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

7 Sec. 39.2. Local siting review.

8 (a) The appropriate governing bodies ~~county board of the~~
9 ~~county or the governing body of the municipality~~, as determined
10 by paragraph (c) of Section 39 of this Act, shall approve or
11 disapprove the request for local siting approval for each
12 pollution control facility which is subject to such review. An
13 applicant for local siting approval shall submit sufficient
14 details describing the proposed facility to demonstrate
15 compliance, and local siting approval shall be granted only if
16 the proposed facility meets the following criteria:

17 (i) the facility is necessary to accommodate the waste
18 needs of the area it is intended to serve;

19 (ii) the facility is so designed, located and proposed
20 to be operated that the public health, safety and welfare
21 will be protected;

22 (iii) the facility is located so as to minimize
23 incompatibility with the character of the surrounding area
24 and to minimize the effect on the value of the surrounding
25 property;

1 (iv) (A) for a facility other than a sanitary landfill
2 or waste disposal site, the facility is located outside the
3 boundary of the 100 year flood plain or the site is
4 flood-proofed; (B) for a facility that is a sanitary
5 landfill or waste disposal site, the facility is located
6 outside the boundary of the 100-year floodplain, or if the
7 facility is a facility described in subsection (b)(3) of
8 Section 22.19a, the site is flood-proofed;

9 (v) the plan of operations for the facility is designed
10 to minimize the danger to the surrounding area from fire,
11 spills, or other operational accidents;

12 (vi) the traffic patterns to or from the facility are
13 so designed as to minimize the impact on existing traffic
14 flows;

15 (vii) if the facility will be treating, storing or
16 disposing of hazardous waste, an emergency response plan
17 exists for the facility which includes notification,
18 containment and evacuation procedures to be used in case of
19 an accidental release;

20 (viii) if the facility is to be located in a county
21 where the county board has adopted a solid waste management
22 plan consistent with the planning requirements of the Local
23 Solid Waste Disposal Act or the Solid Waste Planning and
24 Recycling Act, the facility is consistent with that plan;
25 for purposes of this criterion (viii), the "solid waste
26 management plan" means the plan that is in effect as of the

1 date the application for siting approval is filed; and

2 (ix) if the facility will be located within a regulated
3 recharge area, any applicable requirements specified by
4 the Board for such areas have been met.

5 The appropriate governing bodies ~~county board or the~~
6 ~~governing body of the municipality~~ may also consider as
7 evidence the previous operating experience and past record of
8 convictions or admissions of violations of the applicant (and
9 any subsidiary or parent corporation) in the field of solid
10 waste management when considering criteria (ii) and (v) under
11 this Section.

12 If the facility is subject to the location restrictions in
13 Section 22.14 of this Act, compliance with that Section shall
14 be determined as of the date the application for siting
15 approval is filed.

16 (b) No later than 14 days before the date on which the
17 governing body ~~county board or governing body of the~~
18 ~~municipality~~ receives a request for site approval, the
19 applicant shall cause written notice of such request to be
20 served either in person or by registered mail, return receipt
21 requested, on the owners of all property within the subject
22 area not solely owned by the applicant, and on the owners of
23 all property within 250 feet in each direction of the lot line
24 of the subject property, said owners being such persons or
25 entities which appear from the authentic tax records of the
26 County in which such facility is to be located; provided, that

1 the number of all feet occupied by all public roads, streets,
2 alleys and other public ways shall be excluded in computing the
3 250 feet requirement; provided further, that in no event shall
4 this requirement exceed 400 feet, including public streets,
5 alleys and other public ways.

6 Such written notice shall also be served upon members of
7 the General Assembly from the legislative district in which the
8 proposed facility is located and shall be published in a
9 newspaper of general circulation published in the county in
10 which the site is located.

11 Such notice shall state the name and address of the
12 applicant, the location of the proposed site, the nature and
13 size of the development, the nature of the activity proposed,
14 the probable life of the proposed activity, the date when the
15 request for site approval will be submitted, and a description
16 of the right of persons to comment on such request as hereafter
17 provided.

18 (c) An applicant shall file a copy of its request with the
19 appropriate governing bodies ~~county board of the county or the~~
20 ~~governing body of the municipality in which the proposed site~~
21 ~~is located~~. The request shall include (i) the substance of the
22 applicant's proposal and (ii) all documents, if any, submitted
23 as of that date to the Agency pertaining to the proposed
24 facility, except trade secrets as determined under Section 7.1
25 of this Act. All such documents or other materials on file with
26 the county board or governing body of the municipality shall be

1 made available for public inspection at the office of the
2 county board or the governing body of the municipality and may
3 be copied upon payment of the actual cost of reproduction.

4 Any person may file written comment with the appropriate
5 governing bodies ~~county board or governing body of the~~
6 ~~municipality~~ concerning the appropriateness of the proposed
7 site for its intended purpose. The appropriate governing bodies
8 ~~county board or governing body of the municipality~~ shall
9 consider any comment received or postmarked not later than 30
10 days after the date of the last public hearing.

11 (d) At least one public hearing is to be held by the
12 appropriate governing bodies ~~county board or governing body of~~
13 ~~the municipality~~ no sooner than 90 days but no later than 120
14 days after the date on which it received the request for site
15 approval. No later than 14 days prior to such hearing, notice
16 shall be published in a newspaper of general circulation
17 published in the county of the proposed site, and delivered by
18 certified mail to all members of the General Assembly from the
19 district in which the proposed site is located, to the
20 governing authority of every municipality contiguous to the
21 proposed site or contiguous to the municipality in which the
22 proposed site is to be located, to the county board of the
23 county where the proposed site is to be located, if the
24 proposed site is located within the boundaries of a
25 municipality, and to the Agency. Members or representatives of
26 the governing authority of a municipality contiguous to the

1 proposed site or contiguous to the municipality in which the
2 proposed site is to be located and, if the proposed site is
3 located in a municipality, members or representatives of the
4 county board of a county in which the proposed site is to be
5 located may appear at and participate in public hearings held
6 pursuant to this Section. The public hearing shall develop a
7 record sufficient to form the basis of appeal of the decision
8 in accordance with Section 40.1 of this Act. The fact that a
9 member of a ~~the~~ county board or governing body of a ~~the~~
10 municipality has publicly expressed an opinion on an issue
11 related to a site review proceeding shall not preclude the
12 member from taking part in the proceeding and voting on the
13 issue.

14 (e) Decisions of the appropriate governing bodies ~~county~~
15 ~~board or governing body of the municipality~~ are to be in
16 writing, specifying the reasons for the decision, such reasons
17 to be in conformance with subsection (a) of this Section. In
18 granting approval for a site the appropriate governing bodies
19 ~~county board or governing body of the municipality~~ may impose
20 such conditions as may be reasonable and necessary to
21 accomplish the purposes of this Section and as are not
22 inconsistent with regulations promulgated by the Board. Such
23 decision shall be available for public inspection at the office
24 of the county board or governing body of the municipality and
25 may be copied upon payment of the actual cost of reproduction.
26 If there is no final action by the appropriate governing bodies

1 ~~county board or governing body of the municipality~~ within 180
2 days after the date on which it received the request for site
3 approval, the applicant may deem the request approved.

4 At any time prior to completion by the applicant of the
5 presentation of the applicant's factual evidence and an
6 opportunity for cross-questioning by the appropriate governing
7 bodies ~~county board or governing body of the municipality~~ and
8 any participants, the applicant may file not more than one
9 amended application upon payment of additional fees pursuant to
10 subsection (k); in which case the time limitation for final
11 action set forth in this subsection (e) shall be extended for
12 an additional period of 90 days.

13 If, prior to making a final local siting decision, a county
14 board or governing body of a municipality has negotiated and
15 entered into a host agreement with the local siting applicant,
16 the terms and conditions of the host agreement, whether written
17 or oral, shall be disclosed and made a part of the hearing
18 record for that local siting proceeding. In the case of an oral
19 agreement, the disclosure shall be made in the form of a
20 written summary jointly prepared and submitted by the county
21 board or governing body of the municipality and the siting
22 applicant and shall describe the terms and conditions of the
23 oral agreement.

24 (e-5) Siting approval obtained pursuant to this Section is
25 transferable and may be transferred to a subsequent owner or
26 operator. In the event that siting approval has been

1 transferred to a subsequent owner or operator, that subsequent
2 owner or operator assumes and takes subject to any and all
3 conditions imposed upon the prior owner or operator by the
4 county board of the county or governing body of the
5 municipality pursuant to subsection (e). However, any such
6 conditions imposed pursuant to this Section may be modified by
7 agreement between the subsequent owner or operator and the
8 appropriate county board or governing body. Further, in the
9 event that siting approval obtained pursuant to this Section
10 has been transferred to a subsequent owner or operator, that
11 subsequent owner or operator assumes all rights and obligations
12 and takes the facility subject to any and all terms and
13 conditions of any existing host agreement between the prior
14 owner or operator and the appropriate county board or governing
15 body.

16 (f) A local siting approval granted under this Section
17 shall expire at the end of 2 calendar years from the date upon
18 which it was granted, unless the local siting approval granted
19 under this Section is for a sanitary landfill operation, in
20 which case the approval shall expire at the end of 3 calendar
21 years from the date upon which it was granted, and unless
22 within that period the applicant has made application to the
23 Agency for a permit to develop the site. In the event that the
24 local siting decision has been appealed, such expiration period
25 shall be deemed to begin on the date upon which the appeal
26 process is concluded.

1 Except as otherwise provided in this subsection, upon the
2 expiration of a development permit under subsection (k) of
3 Section 39, any associated local siting approval granted for
4 the facility under this Section shall also expire.

5 If a first development permit for a municipal waste
6 incineration facility expires under subsection (k) of Section
7 39 after September 30, 1989 due to circumstances beyond the
8 control of the applicant, any associated local siting approval
9 granted for the facility under this Section may be used to
10 fulfill the local siting approval requirement upon application
11 for a second development permit for the same site, provided
12 that the proposal in the new application is materially the
13 same, with respect to the criteria in subsection (a) of this
14 Section, as the proposal that received the original siting
15 approval, and application for the second development permit is
16 made before January 1, 1990.

17 (g) The siting approval procedures, criteria and appeal
18 procedures provided for in this Act for new pollution control
19 facilities shall be the exclusive siting procedures and rules
20 and appeal procedures for facilities subject to such
21 procedures. Local zoning or other local land use requirements
22 shall not be applicable to such siting decisions.

23 (h) Nothing in this Section shall apply to any existing or
24 new pollution control facility located within the corporate
25 limits of a municipality with a population of over 1,000,000.

26 (i) (Blank.)

1 The Board shall adopt regulations establishing the
2 geologic and hydrologic siting criteria necessary to protect
3 usable groundwater resources which are to be followed by the
4 Agency in its review of permit applications for new pollution
5 control facilities. Such regulations, insofar as they apply to
6 new pollution control facilities authorized to store, treat or
7 dispose of any hazardous waste, shall be at least as stringent
8 as the requirements of the Resource Conservation and Recovery
9 Act and any State or federal regulations adopted pursuant
10 thereto.

11 (j) Any new pollution control facility which has never
12 obtained local siting approval under the provisions of this
13 Section shall be required to obtain such approval after a final
14 decision on an appeal of a permit denial.

15 (k) A county board or governing body of a municipality may
16 charge applicants for siting review under this Section a
17 reasonable fee to cover the reasonable and necessary costs
18 incurred by such county or municipality in the siting review
19 process.

20 (l) The governing Authority as determined by subsection (c)
21 of Section 39 of this Act may request the Department of
22 Transportation to perform traffic impact studies of proposed or
23 potential locations for required pollution control facilities.

24 (m) An applicant may not file a request for local siting
25 approval which is substantially the same as a request which was
26 disapproved pursuant to a finding against the applicant under

1 any of criteria (i) through (ix) of subsection (a) of this
2 Section within the preceding 2 years.

3 (n) In any review proceeding of a decision of the county
4 board or governing body of a municipality made pursuant to the
5 local siting review process, the petitioner in the review
6 proceeding shall pay to the county or municipality the cost of
7 preparing and certifying the record of proceedings. Should the
8 petitioner in the review proceeding fail to make payment, the
9 provisions of Section 3-109 of the Code of Civil Procedure
10 shall apply.

11 In the event the petitioner is a citizens' group that
12 participated in the siting proceeding and is so located as to
13 be affected by the proposed facility, such petitioner shall be
14 exempt from paying the costs of preparing and certifying the
15 record.

16 (o) Notwithstanding any other provision of this Section, a
17 transfer station used exclusively for landscape waste, where
18 landscape waste is held no longer than 24 hours from the time
19 it was received, is not subject to the requirements of local
20 siting approval under this Section, but is subject only to
21 local zoning approval.

22 (Source: P.A. 94-591, eff. 8-15-05; 95-288, eff. 8-20-07.)

23 (415 ILCS 5/39.2a new)

24 Sec. 39.2a. Operational approval for PCB facilities
25 affecting community water supplies. Notwithstanding any other

1 provision of this Act, in order to protect the public health,
2 safety, and welfare of the people of the State of Illinois,
3 beginning on the effective date of this amendatory Act of the
4 98th General Assembly, no site or facility for the treatment,
5 storage, or disposal of polychlorinated biphenyls (PCBs) or PCB
6 Items regulated under Subpart D of 40 C.F.R. 761 that is
7 located less than 500 feet above an aquifer that currently
8 provides the only source of potable water for a community water
9 supply shall commence or continue treating, storing, disposing
10 of, or accepting for treatment, storage, or disposal any
11 polychlorinated biphenyls (PCBs) or PCB Items unless the owner
12 or operator of that site or facility submits proof to the
13 Agency that the operation of the facility on and after the
14 effective date of this amendatory Act of the 98th General
15 Assembly has been approved by ordinances duly adopted by the
16 county board of each county located, in or whole in part,
17 within the aquifer's boundaries and the governing body of each
18 municipality located, in or whole or part, within the aquifer's
19 boundaries.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."